

FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Implementation of the ) MM Docket No. 92-260  
Cable Television Consumer )  
Protection and Competition )  
Act of 1992 )  
 )  
Cable Home Wiring )

**COMMENTS OF THE COMMUNITY ANTENNA TELEVISION  
ASSOCIATION, INC.**

The Community Antenna Television Association, Inc., ("CATA"), is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 60 million cable television subscribers. CATA files these "Comments" on behalf of its members who will be directly affected by the Commission's action.

**INTRODUCTION**

This proceeding is in response to the Congressional directive set out in Section 16 (d) of the 1992 Cable Act, that the Commission adopt rules dealing with the disposition of "home" wiring e.g., wiring installed by the cable operator inside the premises of a subscriber, upon termination of the cable service. CATA understands that this is a well intentioned effort to guard against damage and undue disruption that might be caused if cable operators physically remove "home" wiring when a subscriber terminates service.

On the other hand, we are confident that the Commission

understands the operator's need to protect its business as an on-going concern particularly from illegal and abusive activities such as theft of service or taking a free or discounted installation and then dropping the service. Operators will need flexibility to deal with these and other situations. In some for instance, it will be best to remove a subscriber's "home" wiring upon termination of service while in others it will be appropriate to impose additional fees or penalty provisions.

The Commission correctly recognizes that circumstances and practices concerning subscriber acquisition of home wiring vary widely from community to community and system to system. Prevention of signal leakage, tax consequences, type of dwelling unit, and potential for theft are among the factors that make this more than a simple issue. The Commission therefore, should adopt to the greatest extent possible, regulations that are flexible enough to accommodate the many situations and individual needs of both subscribers and operators.

There are however, a couple of essential requirements that CATA believes must be included in the Commission's regulatory scheme. First, cable operators must be allowed to reclaim wiring when it's necessary to prevent theft of service. Second, existing contractual arrangements between subscribers and operators in which rights have already been negotiated should not be impaired. And third, the Commission should not get involved in setting rates for the subscriber's acquisition of "home" wiring or with other local issues.

**OPERATORS SHOULD BE ALLOWED TO RECLAIM WIRING  
WHEN IT IS NECESSARY TO PREVENT THEFT OF SERVICE**

It is essential that cable system operators have the right to remove "home" wiring when service is terminated for non-payment or theft of service, or upon a showing that theft of service is likely to result if the wiring is not reclaimed. Theft of service is a major and growing problem for the cable television industry. It loses \$4.7 billion a year or almost 24 percent of the gross industry revenue in 1991, from cable theft according to the National Cable Television Association's Office of Cable Signal Theft 1992 survey. Even Congress recognized the severity of the theft problem by increasing the statutory penalties for it in the 1992 Cable Act.

Installation of wiring inside a subscriber's individual dwelling unit is the most difficult aspect of stealing cable service. Once it is in place, it is relatively easy for an individual to purchase and install the illegal converters and taps necessary to obtain the cable service. The potential for theft then, is greatest after the wire is installed and the service subsequently is terminated whether or not termination was for non-payment. At this point the operator must be allowed to make a reasonable determination as to whether the wiring should be removed in order to protect the business.

**EXISTING AGREEMENTS SHOULD NOT BE IMPAIRED**

Any rules adopted by the Commission giving subscribers the right to acquire "home" wiring should be prospective only.

Existing agreements between operators and subscribers establish rights that have been relied upon. For instance, the cost of installation may have been set to account for conditions under which the subscriber might acquire the wiring, i.e., length of remaining time under the existing franchise for the operator to recoup its investment. It would be unfair to change these terms after both the subscriber and the operator have acted in reliance upon them.

**THE COMMISSION SHOULD NOT SET RATES  
OR DECIDE OTHER LOCAL ISSUES**

The Commission should not become involved in setting the rates to be charged for acquisition of "home" wiring. First, Congress in this instance, did not intend for the Commission to engage in rate regulation. If it had, it would have specifically said so just as it did elsewhere in the Cable Act with respect to subscriber rates.

Moreover, it would disserve the public interest to try to set rates or decide other issues of a local nature such as ownership rights. For instance, a cable operator who offers free or discounted installations in support of a local charity's fund-raising campaign must be able to protect against abuse by a "subscriber" who takes advantage of the offer only as an inexpensive way to secure the "home" wiring while fully intending to drop the service and use it for some other purpose such as distribution of signals from his backyard earth terminal.

These issues involve a myriad of local factual situations and consequences that cannot possibly be fully or fairly

accounted for with a blanket set of federally imposed regulations. They are best left to resolution by the agreements between the subscribers and operators.

#### CONCLUSION

The Commission should acknowledge the wide diversity of circumstances and industry practices regarding the acquisition of "home" wiring by subscribers. Legitimate concerns such as the need to protect against illegal and abusive practices as we have articulated in these "Comments," can and should be addressed. Any new rules, however, should leave sufficient flexibility for the parties to deal with individual and local issues on a case by case basis.

Respectfully submitted,

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